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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/429,406	10/26/1999	JAMES M. BROWN	QCPA9900029	5890

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Qualcomm Incorporated  
Patents Department  
5775 Morehouse Drive  
San Diego, CA 92121-1714

EXAMINER
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WILSON, ROBERT W

ART UNIT	PAPER NUMBER
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2661

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DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/429,406

Applicant(s)

BROWN ET AL.

Examiner

Robert W Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 5 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

**1.0** The application of James M. Brown et al. for a "METHOD AND APPARATUS FOR EFFICIENT DATA TRANSMISSION CONTROL IN A WIRELESS VOICE-OVER-DATA COMMUNICATION SYSTEM" which was filed on October 26, 1999 and amended on 10/1/03 without foreign priority. The case was examined and Claims 1-5 are pending.

### *Claim Rejections - 35 USC § 102*

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

**2.0** Claims 1-3 are rejected under 35 U.S.C. 102(a) as being anticipated by DeClerck (U.S. Patent No.: 5,515,375)

Referring to Claim 1, DeClerck teaches: A method for transmitting time-sensitive information over a wireless voice-over-data communication system, used in conjunction with a predefined data protocol (Figs 1-6 show a method for sending voice and control messages or time sensitive information via wireless which contains both a voice and SIGNAL MESSAGEs in a predefined protocol), comprising the steps of:

defining a minimum segment size for information to be transmitted (1/8 per Fig 2)

defining a maximum segment size for information to be transmitted (Full per Fig 2 or col 4 lines 23-25), said second segment size greater than said first segment size (The meaning of this limitation is not clear to the examiner. The examiner interprets this to maximum segment size to be the sum of the voice and SIGNAL MESSAGE or Full as shown per Fig 2);

generating a first segment from said time-sensitive information if a sufficient quantity of said time-sensitive information is available for transmission (CONTROL MESSAGE or first segment

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per col 3 line 53 or col 6 line 20-28 or col 5 line 62-col 6 line 8 or per Fig 2), said first segment having a segment size between said minimum segment size and said maximum segment size (This limitation is unclear the examiner interprets this to mean that the first segment is the CONTROL MESSAGE which can have a minimum size of 1/8 per Figs 2-6); and generating a second segment having a segment size less than or equal to said maximum segment size upon the occurrence of a predefined event (This limitation is unclear. The examiner interprets this to be CODED VOICE DATA or second segment which is sent at less than maximum rate because CONTROL MESSAGES must be sent per Figs 1-6 and per col 3 lines 4-8 or col 4-lines 10-15 or col 6 lines 20-27)

**In Addition:**

wherein said predefined event comprises the receipt of an acknowledgment message (The CONTROL MESSAGE must be sent as an ACK per col 3 lines 4-8 or col 4 lines 10-15 or col 6 lines 20-27) as claimed in **Claim 2**.

wherein said maximum segment size is negotiated between a transmitter and a receiver (The maximum vocoder rate and amount of signal message shown per Fig 2 is negotiated per col 4 lines 10-15 or col 4 lines 36-52 or segment size is negotiated between the parties or transmitter and receiver ) as claimed in **Claim 3**.

***Allowable Subject Matter***

**3.0** The present invention is directed to a apparatus which negotiates a maximum segment size before transmitting the data to the receiver. The closest prior art DeClerck teaches that vocoder data and control data are multiplexed together in order to make more efficient use of the frames but no negotiation is performed between the vocoder and the receiver. The closest prior art De Clerck (U.S. Patent No.: 5,515,375) does not either singularly or in combination anticipate, disclose, or render the following claim limitation obvious:

“means for negotiating a maximum segment size with a receiver” as claimed in Claim 4.

**In Addition:**

**Claim 5** is allowable because it depends on **Claim 4**.

*Response to Applicant's Arguments*

4.0 Applicant's arguments filed 10/1/03 have been fully considered but they are not persuasive.

The examiner respectfully disagrees with the applicant's argument relative to Claims 1-3 in which the applicant states that De Clerck fails to show or teach the limitations of "defining a minimum segment size for information to be transmitted" and defining a maximum segment size for information to be transmitted". The examiner has broadly interpreted these claim limitations. The reference De Clerck teaches " minimum segment size to be transmitted (/8 per Fig 2)" and "defining a maximum segment size for information transmitted (Full per Fig 2 or col 4 lines 23-25). The examiner sees no difference in these teachings and the claim limitations under a broad interpretation. The examiner believes his interpretation is reasonable

5.0 Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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**6.0**

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W Wilson whose telephone number is 703/305-4102. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on (703) 305-4703. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Robert W Wilson  
Examiner  
Art Unit 2661

RWW  
October 28, 2003



DANTON  
PRIMARY EXAMINER